

Top Layer Networks, Inc.
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April 12, 2004

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, D.C. 20554

Re: Comments in RM-10865

Dear Ms. Dortch:

Top Layer Networks, Inc. hereby submits in comments in the above referenced proceeding.

Sincerely,

Kyriacos (Ken) Georgiades
Senior Director

cc: Rodney Small, OED, Rodney.Small@fcc.gov

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
United States Department of Justice, Federal)	RM No. 10865
Bureau of Investigation and Drug)	
Enforcement Administration)	
)	
Joint Petition for Rulemaking to Resolve)	
Various Outstanding Issues Concerning the)	
Implementation of the Communications)	
Assistance for Law Enforcement Act)	

COMMENTS OF TOP LAYER NETWORKS, INC.

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EXECUTIVE SUMMARY

Top Layer Networks, Inc. believes that the concerns raised and remedies proposed in the **Joint Petition for Expedited Rulemaking submitted by the United States Department of Justice, the Federal Bureau of Investigation, and the Drug Enforcement Administration** (*Joint Petition*) relevant to the FCC issuing a Notice of Proposed Rulemaking are very logical and completely justified.

From our experience in providing solutions for lawful IP Interception, and our participation in international standards groups for lawful interception, we believe that the FCC should issue an immediate Declaratory Ruling or other formal Commission statement, and ultimately adopt final rules, finding that broadband access services and broadband telephony services are subject to CALEA.

INTRODUCTION

Top Layer Networks, Inc. is a leading provider of IP Interception appliances and other network security products, for government, service providers and enterprise customers. Our IP Interception appliance (DCFD: Data Collection and Filtering Device) is being in use today, in a tactical mode, by several Law Enforcement Agencies and Service Providers for surveillance of criminals, and terrorists.

The Lawful Intercept and Electronic Surveillance industry is a mature industry that has traditionally been funded by the Law Enforcement Agencies. We believe that unless the FCC acts immediately on the proposed petition, this industry will suffer, which will impact the overall surveillance capabilities of the Law Enforcement Agencies in the U.S.

THE CAPABILITIES SOUGHT BY THE JOINT PETITIONERS ARE ALREADY AVAILABLE IN THE MARKET TODAY.

The capabilities sought by the Joint Petitioners are in large measure already available in the market today, due to the demand in the worldwide market. We have been participating at the ETSI (European Telecommunications Standard Institute) Lawful Intercept group for several years now, and our findings are that almost all the countries do not differentiate between the various types of carriers and types of services offered.

On the contrary they are all combined together in the “Service Provider” category and all the services offered to the public for hire, are covered by lawful surveillance laws, similar to CALEA.

The technology to intercept IP (or packet) based communications has advanced significantly in the last 5 years, (because of demand in other countries outside the U.S) and mature products and solutions are widely available today. These solutions have the ability to access and intercept the specific needed call identifying or content information for an IP application such as VoIP. At the same time the Collector systems (Monitoring Centers) that Law Enforcement agencies have been using for decoding intercepted voice calls, now have the capability to decode VoIP calls and other IP applications such as email, and web browsing.

**THE CONTEMPLATED ACTIONS ARE COMPARABLE AND
COMPATIBLE WITH DEVELOPMENTS OCCURRING
WORLDWIDE BY REGULATORY AUTHORITIES, INDUSTRY
AND LAW ENFORCEMENT**

The capabilities sought by the Joint Petitioners are in large measure extensively used in many other countries worldwide. Of particular interest will be to mention the work of ETSI TC LI (ETSI Technical Committee on Lawful Intercept). This group represents Law Enforcement Agencies, Service Providers, Equipment Vendors and Lawful Interception Vendors. For the last few years, this group has worked together to develop mutually agreed industry standards for IP Interception. The following groups have participated and contributed in the development of IP interception standards.

Service Providers	Government/LEAs	Telecommunications /Networking vendors	Interception vendors
<ul style="list-style-type: none">• BT (U.K)• FT• DT• Telia Sonera• T-Mobile	<ul style="list-style-type: none">• U.K Homeoffice• German Government• Dutch Government	<ul style="list-style-type: none">• Alcatel• Siemens• Nokia• LM Ericsson• Nortel	<ul style="list-style-type: none">• Verint• ETI• NICE• Syborg• Top Layer

<ul style="list-style-type: none"> • KPN Telecom • Immarsat • Vodafone • Telstra (Australia) 	(PIDS) <ul style="list-style-type: none"> • Canada (Solicitor General) • Russia • France (Ministry of Interior) • Finland (NBI) • U.S (ESTS) 	<ul style="list-style-type: none"> • Cisco • Marconi • Motorola 	Networks <ul style="list-style-type: none"> • Aqsacom • G-ten • Verisign • Ectel
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